



The Kerala Public Servants (Inquiries) Act, 1963

Act 31 of 1963

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ACT 31 Of 1963

THE KERALA PUBLIC SERVANTS (INQUIRIES) ACT, 1963

An act to amend and unify the law relating to public inquiries into the conduct of public servants in the service of the Government of Kerala.

Preamble .- WHEREAS it is necessary to amend and unify the law relating to public inquiries into the conduct of public servants in the service of the Government of Kerala ;

BE it enacted in the Fourteenth Year of the Republic of India as follows :-

1 . *Short title and commencement* .-(1) This Act may be called the Kerala Public servants (Inquiries) Act, 1963.

(2) It shall come into force at once.

2 . *Definitions* .- In this Act, unless the context otherwise requires –

(1) “public servant” means a person appointed to any public service or post in connection with the affairs of the State of Kerala , but does not include a member of any Union Public Service or of any All India service serving in connection with the affairs of the State of Kerala

(2) references to commissioner shall, where more than one commissioner has been appointed, be construed as references to the commissioners.

3. *Articles of charge to be drawn up for public inquiry into the conduct of public servants* .- If, after preliminary inquiry or otherwise, the Government are of opinion that there are sufficient grounds for making a formal and public inquiry into the truth of any imputation of mis-conduct on the part of any public servant, the Government shall cause the substance of the imputations to be drawn up into distinct articles of charges and communicate the same to the public servant together with a statement of the allegations on which each of such charge is based and he shall be required to submit within a reasonable time which shall not be less than fifteen days to be specified in that behalf a written statement of his defence. If a written statement is received within the time specified , after considering the same, or if no written statement is received within the time, after expiry of the period specified, the Government may, if they consider necessary, order a formal and public inquiry to be made into the truth of the said imputation.

4. *Authority to whom inquiry may be committed, Notice to accused* .- (1) The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to the commissioner or to the commissioners appointed under sub-section (2), notice of which commission shall be given to the person accused at least fifteen days before the beginning of the inquiry.

(2) The Government may, by notification in the Gazette, appoint any person or persons as commissioner or commissioners for the purpose of making inquiries under this Act into the conduct of public servants generally, or into the conduct of any public servant or public servants in any particular case or class of cases.

5. *Conduct of Government prosecution* .- Whenever the Government are of opinion that a prosecution shall be conducted, they shall nominate some person to conduct the same on their behalf.

6. *Charge by accuser to be written and verified. Institution of inquiry by Government* .- When the charge is brought by an accuser, the Government shall require the accusation to be reduced to writing and verified on oath or solemn affirmation by the accuser; but nothing in this Act shall be construed to prevent the Government from instituting any inquiry which they shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

7. *Security from accuser left by Government to prosecute* .- Where the imputations are made by an accuser and the Government think fit to leave to him the conduct of the prosecution, the Government, before appointing the commissioner, shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution.

8. *Power of Government to abandon prosecution and to allow accuser to continue it* .- At any subsequent stage of the proceedings the Government may, if they think fit, abandon the prosecution, and in such case, may, if they think fit on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

9• *Power of Commissioner* .-The commissioner shall have the same power of punishing contempts and obstructions to its proceedings as is given to Civil and Criminal Courts by the Code of Criminal Procedure, 1898, and shall have the same powers for the summons of witnesses and for compelling the production of documents and for the discharge of his duty and shall be entitled to the same protection as the District and sessions Judge, except that all processes to cause the attendance of witnesses or other compulsory processes shall be served through and executed by the District and Sessions Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served. When the commission has been issued to a Court or other person or persons having power to issue such process in the exercise of their ordinary jurisdiction, they may use all such power for the purpose of the commission.

10. *Penalty for disobedience to process* .- All persons disobeying any lawful process as aforesaid for the purposes of the commission shall be liable to the same penalties as if the same had issued originally from the Court or other authority through whom it is executed

11. *Copy of charge and list to be furnished to the accused .-* A copy of the articles of charges and the list of the documents and witnesses by which each charge is to be sustained, shall be delivered to the person accused, at least seven days before the beginning of the inquiry, exclusive of the day of delivery and the first day of the inquiry.

12. *The accused to be permitted to inspect and take extracts from official records.-* The person accused shall, for the purpose of preparing his defence, be permitted to inspect and take extracts from such official records including documents produced by witnesses as he may specify :Provided that such permission may be refused, if for reasons to be recorded in writing, in the opinion of the commissioner such records are not relevant for the purpose or it is against public interest to allow him access thereto.

13. *Procedure at beginning of inquiry.- Non-appearance of accused and admission of charge .-* At the beginning of the inquiry, the prosecutor shall deliver the articles of charges to the commissioner which shall be openly read, and the person accused shall thereupon be required to plead 'guilty' or 'not guilty' to each of them, which pleas shall be forthwith recorded with the articles of charges. If the person accused refuses, or without reasonable cause neglects to appear and to answer the charges either personally or by his counsel or agent, he shall be taken to admit the truth of the articles of charges.

14. *Prosecutor's right of address .-* The prosecutor shall then be entitled to address the commissioner in explanation of the articles of charges and of the evidence by which they are to be proved, but his address shall not be recorded.

15. *Evidence for prosecution and examination of witnesses. Re-examination by prosecutor.-* The oral and documentary evidence for the prosecution shall then be produced; the witnesses shall be examined by or on behalf of the prosecutor and may be cross- examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the commissioner who also may put such questions as he thinks fit.

16. *Power to admit or call for new evidence for prosecution. Accused's right to adjournment .-* If it appears necessary before the close of the case for the prosecution, the commissioner may, in his discretion allow the prosecutor to produce evidence not included in the list given to the person accused, or may itself call for new evidence and in such case the person accused shall be entitled to have, if he demands it, an adjournment of the proceedings for seven clear days, before the production of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

17. *Defence of accused to be recorded only when written.-* When the case for the prosecution is closed the person accused shall be required to make his defence, orally or in writing , as he shall prefer. If made orally, it shall not be recorded; if made in writing it shall be recorded after being openly read and in that case a copy shall be given at the same time to the prosecutor.

18. *Evidence for defence and examination of witnesses* .- The evidence for the defence shall then be produced and the witnesses examined who shall be liable to cross-examination and re-examination and to examination by the commissioner according to the like rules as the witnesses for the prosecution.

19. *Notes of oral evidence* .- The commissioner or some person appointed by him shall take notes of all the oral evidence which shall be read aloud to each witness by whom it was given. The notes of evidence, shall be signed by the witness in the presence of the Commissioner and shall be recorded with the proceedings.

20. *Inquiry when closed with defence, Prosecution when entitled to reply and give evidence* .- If the person accused makes only an oral defence and produces no evidence, the inquiry shall end with the defence; if he records a written defence or produces evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also produce evidence to contradict any evidence produced for the defence, although such new evidence were not included in the list furnished to the accused person. The Commissioner may, if he thinks fit, allow the person accused, opportunity to produce evidence to contradict such new evidence.

21. *Power to require amendment of charge and to adjourn* .- If in the opinion of the commissioner the articles of charges or any of them are not drawn up with sufficient clearness and precision or if in the course of an inquiry new facts and circumstances necessitating the modification or alteration of the articles, of charges or any of them come to light, the commissioner may amend, alter or modify the articles of charges or any of them as is deemed necessary and may adjourn the inquiry for a reasonable time to enable the accused to submit written statement of his defence in respect of the charges modified, amended or altered. The commissioner may also, if he thinks fit, adjourn the inquiry from time to time on the application of either the prosecutor or the person accused on the ground of sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused the commissioner shall record the application and his reasons for refusing to comply with it.

22. *Report of commissioner's proceedings* .- After the close of the inquiry the commissioner shall forthwith report to the Government his proceedings and shall send with the record thereof his opinion upon each of the articles of charges separately and his recommendation regarding the punishment, if any, to be imposed on the person accused, with such observations as he may think fit to make on the whole case.

23. *Power of Government to pass final orders* .- The Government may, if they think fit, refer the report to the commissioner to the Court, Board or other authority to which the person accused is subordinate, for their opinion on the case; and shall, after consulting the Public Service Commission in cases where such consultation is necessary pass such orders thereon as they consider just and proper .Provided that no order imposing the punishment of dismissal, removal or reduction in rank shall be passed unless the person accused has been given a reasonable opportunity of making representation on the punishment proposed, but only on the basis of the evidence adduced in such inquiry.

24. *Saving of power of removal without inquiry under the Act* .- Nothing in this Act shall be construed to affect the authority of the Government for suspending or removing any public servant for any cause without any inquiry under this Act or for conducting an inquiry against any public servant for any cause under any other Act, Rule or Regulation for the time being in force.

25. *Power of Government to make rules*.- (1) The Government may make rules to carry out the purposes of this Act

(2) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

26. *Repeal*.- The Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850) as in force in the Malabar District referred to in sub-section(2) of section 5 of the State Reorganisation Act, 1956, in so far as it relates to officers to whom the provisions of this Act apply and the Public Servants (Inquiries) Act, 1122 (Act XI of 1122) are hereby repealed.